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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,311	03/04/2002	Teruo Masaki	7217/66562	5487

7590 11/14/2005
COOPER & DUNHAM LLP
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New York, NY 10036

EXAMINER

SHIFERAW, ELEN I A

ART UNIT PAPER NUMBER

2136

DATE MAILED: 11/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/090,311	Applicant(s) MASAKI ET AL.	
	Examiner Eleni A. Shiferaw	Art Unit 2136	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4 and 7-14 is/are pending in the application.
- 4a) Of the above claim(s) 3,5 and 6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4 and 7-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's arguments/amendments with respect to canceled claims 3, and 5-6, amended claims 1, 8-9, and 13-14, and presently pending claims 1-2, 4, and 7-14, filed on August 25, 2005 have been fully considered but they are not persuasive.

Response to Arguments

2. Applicant argues that:

Independent claims 1, 8-9, and 13-14 are not taught by neither of the references to include *“performing a predetermined process for the file before the file is transmitted when a result at the step of determining represents that the content of the file is not valid, wherein the predetermined process for the file is a destruction of the file”* (page 9 par. 2).

However, Examiner disagrees with applicant. Argument is not persuasive. Kim teaches destroying/destructing the control word of the file/data before the data is transmitted, by determining the predetermined process (number of allowed data) for data transmission/copying, when there is an illegal/invalid predetermined process is detected (col. 12 lines 30-60)

The examiner is not trying to teach the invention but is merely trying to interpret the claim language in its broadest and reasonable meaning. Therefore, the examiner asserts

that the system of the prior art, Kim and Benson teach or suggest the subject matter as recited in independent claims 1, 8-9, and 13-14. Dependent claims 2, 4, 7, 10-12 are also rejected at least by virtue of their dependency on independent claims and by other reasons set forth in this office action dated November 2, 2005. Accordingly, rejections for claims 1-2, 4, and 7-14 are respectfully maintained.

3. Examiner withdraws the 101 rejection for claim 9.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-2, 4, and 7-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al. (Kim, Patent Number: 5,799,081) in view of Benson (Patent No.: US 6,301,660 B1).

As per claims 1, 8, 9, 13, and 14, Kim teaches a copyright licensing process promoting apparatus/method/program/medium for promoting a copyright licensing process for literary work data transmitted via a communication network, comprising:

detecting means for detecting a file of the literary work data being transmitted from a terminal (Kim col. 4 lines 1-4, and col. 8 lines 11-38);

content determining means for determining whether a content of the file being transmitted and detected by said detecting means is valid (Kim col. 4 lines 1-4, and col. 8 lines 11-38); and

file processing means for performing a predetermined process for the file before the file is transmitted when a result of said content determining means is not valid, wherein the predetermined process for the file is a destruction of the file (Kim col. 12 lines 31-60).

Kim discloses prohibiting digital content from being transmitted from a terminal to digital recording medium such as VCR, cassette tape or the like (Kim col. 4 lines 1-4, and col. 8 lines 11-38). Kim fails to teach prohibiting content transmission over the network.

However Benson teaches detecting, determining, and prohibiting a customer who is authorized to display a digital content from forwarding the authorized digital content to unauthorized customer (Benson col. 14 lines 56-59).

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify the teachings of Benson within the system of Kim because they are analogous in copyright data protection (Benson col. 2 lines 18-26, and col. 9 lines 38-49). One skilled in the art would have been motivated to incorporate the teachings of Benson into Kim because it would prevent unauthorized distribution of content illegally and protect content owners interest.

As per claim 2, both Kim and Benson teach all the subject matter as described above. In addition, Kim teaches the copyright licensing process promoting apparatus, further comprising:

searching means for searching for a location on a predetermined list, referenced via the communication network, at which the file of the literary work data is stored (Kim col. 8 lines 11-38),

wherein said detecting means detects the file being transmitted, the file being stored at the location searched by said searching means (col. 12 lines 31-60).

As per claim 4, both Kim and Benson teach all the subject matter as described above. In addition, Kim teaches the copyright licensing process promoting apparatus, further comprising:

literary work data determining means for determining whether the content of the file being transmitted is literary work data (Kim col. 6 lines 36-43); and

copyright licensing process, determining means for determining whether a copyright licensing process has been performed for the literary work data (Kim col. 8 lines 17-34),

wherein said content determining means determines that the content of the file is valid corresponding to a result of said literary work data determining means and result of said copyright licensing process determining means, and said literary work data determining means represents that the content of the file is literary work data and said copyright licensing process determining means represents that the copyright licensing process has not been performed for the file (Kim col. 8 lines 17-34).

As per claim 7, both Kim and Benson teach all the subject matter as described above. In addition, Kim teaches the copyright licensing process promoting apparatus as set forth in claim 1, further comprising:

informing means for informing a user of the terminal unit that the content of the file is not valid when a result of said content determining means represents that the content of the file is not valid (Kim col. 12 lines 52-55),

wherein said file processing means performs the predetermined process when the terminal unit tries to transmit the file although said informing means has informed the user that the content of the file is not valid (Kim col. 12 lines 31-60).

As per claim 10, both Kim and Benson teach all the subject matter as described above. In addition, Kim teaches the copyright licensing process promoting program,

wherein the copyright licensing process promoting program is supplied from the communication network to the terminal unit (Kim col. 1 lines 6-12, and lines 25-29).

As per claim 11, both Kim and Benson teach all the subject matter as described above. In addition, Kim teaches the copyright licensing process promoting program,

wherein the copyright licensing process promoting program is built in the terminal unit (Kim col. 1 lines 25-29).

As per claim 12, both Kim and Benson teach all the subject matter as described above. In addition, Kim teaches the copyright licensing process promoting program,

wherein the copyright licensing process promoting program is recorded on a record medium along with literary work data and supplied to the terminal unit.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 20010027357 A1 by Grobler: *(deleting music/video/computer programs after a predetermined process/expiration of term for unauthorized access before transmitting the data to user display is very well known at the time of the invention see, par. 0035-0036, 0063, and 0066).*

7. US 6,694,022 B1 by Matsushita *also teaches erasing broadcasting information before transmitting data for unauthorized access/copy/view (see abstract, and col. 2 lines 54-col. 3 lines 30).*

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

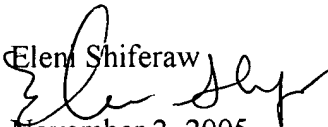
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eleni A. Shiferaw whose telephone number is 571-272-3867.

The examiner can normally be reached on Mon-Fri 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz R. Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Eleni Shiferaw

November 2, 2005


AYAZ SHEIKH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100